



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,437	03/18/2002	Claudine Elvire Marie Bruck	BC45226	2415

25308 7590 09/01/2004

DECHERT
ATTN: ALLEN BLOOM, ESQ
4000 BELL ATLANTIC TOWER
1717 ARCH STREET
PHILADELPHIA, PA 19103

EXAMINER

BORIN, MICHAEL L

ART UNIT

PAPER NUMBER

1631

DATE MAILED: 09/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/937,437

Applicant(s)

BRUCK ET AL.

Examiner

Michael Borin

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-69 is/are pending in the application.
- 4a) Of the above claim(s) 47-67 and 69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 39-46,68 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Response to restriction requirement filed 07/19/2004 is acknowledged. Examiner apologizes for overlooking Preliminary Amendment filed 09/26/2001 which canceled claims 1-37 and added claims 36-68.

In regard to claim numbering, the original set of claims contained claims 1-38. The new set of claims also contains claim 38. To correct this numbering, applicant is requested to renumber newly submitted claims as claims 39-69, and to cancel the original claim 38. For the purposes of the following communication, the claims are addressed by their new, renumbered, numbers. Claims 38 (to be canceled), and claims 39-69 are pending.

In regard to restriction requirement, applicant elected, without traverse, claims 39-46,68 drawn to polypeptides. Claims 47-67,69 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected groups. Cancellation of claims 47-67,69 is requested.

Upon further consideration of the claims of the elected Group, the following additional restriction of Group I was deemed necessary.

Art Unit: 1631

Group IA. Claims 39-46, drawn to peptide SEQ ID No. 2 and derivatives thereof.

Group IB. Claim 68, drawn to peptide SEQ ID No. 4 and derivatives thereof.

The products of Groups IA and IB do not relate to a single general inventive concept under PCT Rule 13.1 because they lack common structure and are directed to products that possess different structure, and/or physico-chemical properties, and/or capable of separate manufacture and/or use. The products of Group IA and IB will require separate sequence and literature searches.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Borin whose telephone number is (571) 272-0713. Dr. Borin can normally be reached between the hours of 8:30 A.M. to 5:00 P.M. EST Monday to Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Woodward, can be reached on (571) 272-0722.

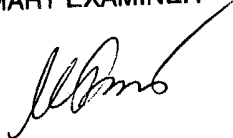
Art Unit: 1631

Any inquiry of a general nature or relating the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-0549.

August 30, 2004

MICHAEL BORIN, PH.D
PRIMARY EXAMINER

mlb

A handwritten signature in black ink, appearing to read 'MB', is written over the printed name and title of Michael Borin.